

Docket No. 2976-4039US3

Express Mail No. EV 170405209US

Customer No. 27123

09/24/03
15992 U.S. PRO

16018 U.S. PTO
10/670184
09/24/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
UTILITY APPLICATION AND FEE TRANSMITTAL §(1.53(b))

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing is the patent application of

Inventor(s) names and addresses:

Tim Keith, residing at 324 North Road, Bedford, Massachusetts 01730; **Randall Little**, residing at 73 Elm Road, Apt. 6, Newtonville, Massachusetts 02493; **Paul Van Eerdewegh**, residing at 25 Linden Circle, Weston, Massachusetts 02493; **Joseé Dupuis**, residing at 111 Fairway Drive, Newton, Massachusetts 02465; **Richard Del Mastro**, residing at 31 Lakeshore Drive, Norfolk, Massachusetts 02056; **Jason Simon**, residing at 1019 Summit Avenue, Westfield, New Jersey 07090; **Kristina Allen**, residing at 11 Oliver Lane, Hopkinton, Massachusetts 01748; and **Sunil Pandit**, residing at 353 W Side Drive, Apt. 202, Gaithersburg, Maryland 20878-3028

For: **NOVEL HUMAN GENE RELATING TO RESPIRATORY DISEASES AND OBESITY**

Enclosed Are:

108 page(s) of specification
1 page(s) of Abstract
4 page(s) of claims
59 sheets of ☒ Formal ☐ Informal drawings
8 page(s) of Declaration and Power of Attorney

- ☐ Unsigned
☐ Newly Executed
☒ Copy from prior application WITH COPY OF Reply to Notice to File Missing Parts of Application, Petition with attachments advising of Sunil Pandit's refusal to execute formal documents
☐ Deletion of inventors including Signed Statement under 37 C.F.R. §1.63(d)(2)

☐ **REQUEST AND CERTIFICATION UNDER 35 U.S.C. §122(b)(2)(B)(i) (form PTO/SB/35)**

As indicated on the attached Request and Certification, Applicant(s) certify that the invention disclosed in the attached application HAS NOT and WILL NOT be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. Applicant(s) therefore request(s) that the attached application NOT be published under 35 U.S.C. §122(b).

☒ **Incorporation by Reference:**

☒ The entire disclosure of the prior application, from which a copy of the combined Declaration and Power of Attorney is supplied herein, is considered as being part of the disclosure of the accompanying application and is incorporated herein by reference.

☐ **Deletion of Inventors (37 C.F.R. §1.63(d) and §1.33(b))**

Signed statement attached deleting inventor(s) named in the prior application serial no. _____, filed _____.

☒ **Microfiche Computer Program (Appendix)**

☒ 58 page(s) of Sequence Listing- copy from prior application number 09/548,797

☒ computer readable disk containing Sequence Listing – copy from prior application number 09/548,797

☒ Statement under 37 C.F.R. §1.821(f) that computer and paper copies of the Sequence Listing are the same - copy from prior application number 09/548,797

☒ **Assignment Papers (assignment cover sheet and assignment documents)**

☐ A check in the amount of \$40.00 for recording the Assignment

☐ Charge the Assignment Recordation Fee to Deposit Account No. 13-4500, Order No. _____.

☒ Assignment Papers filed in the parent application Serial No. 09/548,797

☐ **Certification of chain of title pursuant to 37 C.F.R. §3.73(b)**

☐ **Priority is claimed under 35 U.S.C. §119 for:**

Application No(s). _____, filed _____, in _____ (country).

☐ Certified Copy of Priority Document(s) [_____]

☐ filed herewith

☐ filed in application Serial No. _____, filed _____.

☐ English translation document(s) [_____]

☐ filed herewith

☐ filed in application Serial No. _____, filed _____.

☒ **Priority is claimed under 35 U.S.C. §119(e) for:**

Provisional Application No. 60/129,391, filed 4/13/99 and Provisional Application No. 60/146,336, filed 7/30/99.

- ☒ Information Disclosure Statement
- ☒ Copy of all cited references
- ☒ PTO Form-1449
- ☐ References cited in parent application Serial No. _____, filed _____.
- ☐ Related Case Statement under 37 C.F.R. §1.98(a)(2)(iii)
- ☐ A copy of related pending U.S. Application(s) Serial No(s): _____, filed _____, respectively, is attached hereto.
- ☐ A copy of related pending U.S. Application(s) entitled, _____, filed _____ to inventor(s) _____, respectively, is attached hereto.
- ☐ A copy of each related application(s) was submitted in parent application serial no. _____, filed _____.
- ☐ Preliminary Amendment
- ☒ Return receipt postcard (MPEP 503)
- ☒ This is a ☐ continuation ☒ **divisional** ☐ continuation-in-part of prior application serial no. 09/548,797, filed 4/13/2000, to which priority under 35 U.S.C. §120 is claimed.
- ☐ Cancel in this application original claims _____ of the parent application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
- ☐ A Preliminary Amendment is enclosed. (Claims added by this Amendment have been properly numbered consecutively beginning with the number following the highest numbered original claim in the prior application).
- ☐ The status of the parent application is as follows:
- ☐ A Petition for Extension of Time and a Fee therefor has been or is being filed in the parent application to extend the term for action in the parent application until _____.
- ☐ A copy of the Petition for Extension of Time in the co-pending parent application is attached.
- ☒ No Petition for Extension of Time and Fee therefor are necessary in the co-pending parent application.
- ☐ Please abandon the parent application at a time while the parent application is pending or at a time when the petition for extension of time in that application is granted and while this application is pending has been granted a filing date, so as to make this application co-pending.
- ☒ Amend the specification by inserting before the first line the sentence:
This is ☐ continuation ☒ divisional ☐ continuation-in-part of co-pending application Serial No. 09/548,797, filed April 13, 2000, which claims the benefit of provisional application serial number 60/129,391, filed on April 13, 1999 and provisional application serial number 60/146,336, filed on July 30, 1999.

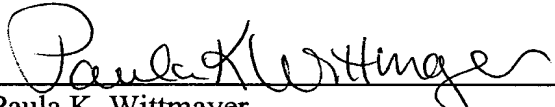
| I. CALCULATION OF APPLICATION FEE | | | | |
|----------------------------------------------------|--------------|-------------------------------------------|------------------|------------------------------|
| | Number Filed | Number Extra | Rate | Basic Fee \$750.00/375.00 |
| Total Claims | 31- 20 = | 11 | \$18.00/ \$9.00 | \$ 198.00 |
| Independent Claims | 10- 3 = | 7 | \$84.00/ \$42.00 | \$ 588.00 |
| <input type="checkbox"/> Multiple Dependent Claims | | If marked, add fee of \$280.00 (\$140.00) | | \$ - |
| TOTAL: | | | | \$ 1,536.00 |

- ☐ Small entity status is or has been claimed. Reduced fees under 37 C.F.R. §1.9 (f) paid herewith \$_____.
- ☒ A check in the amount of \$1,536.00 in payment of the application filing fees is attached.
- ☐ Charge fee to Deposit Account No. 13-4500, Order No. _____. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required for filing this application pursuant to 37 CFR §1.16, **including all extension of time fees pursuant to 37 C.F.R. § 1.17 for maintaining copendency** with the parent application, or credit any overpayment to Deposit Account No. 13-4500, Order No. 2976-4039US3. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: September 24, 2003

By:


Paula K. Wittmayer
Registration No. 53,785

Correspondence Address:

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Tim KEITH et al.

Group Art Unit: TBA

Serial No.: TBA

Examiner: TBA

Filed: Herewith

For: NOVEL HUMAN GENE RELATING TO RESPIRATORY DISEASES AND
OBESITY

EXPRESS MAIL CERTIFICATE

Mail Stop Patent Application
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P.O. Box 1450
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Express Mail Label No.: EV 170405209 US

Date of Deposit: September 24, 2003

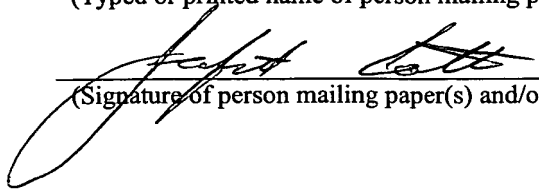
I hereby certify that the following attached paper(s) and/or fee

1. Utility Application and Fee Transmittal;
2. Check in the sum of \$1,536;
3. Patent Application: 108 pgs.: specification, 4 pgs.: claims; 1 pg.: abstract; and 59 sheets of formal drawings;
4. Copy of Declaration filed in parent application number 09/548,797;
5. Copy of Reply to Notice to File Missing Parts of Application, Petition with attachments advising of Sunil Pandit's refusal to execute formal documents in parent application number 09/548,797;
6. Sequence Listing – 58 pages – copy from parent application number 09/548,797;
7. Computer Readable Disk Containing Sequence Listing –copy from parent application number 09/548,797;
8. Statement Under 37 CFR Section 3.73(b);
9. Information Disclosure Statement;
10. PTO Form 1449;
11. Copy of all cited references;
12. Associate Power of Attorney and Change of Correspondence - copy from parent application number 09/548,797; and
13. Return postcard.

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Jatet N. Cotto

(Typed or printed name of person mailing papers(s) and/or fee)


(Signature of person mailing paper(s) and/or fee)

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